



PATENT
Attorney Docket No. 35693.830003.US0
Express Mail No. EL379007156US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

BYRNES, et al.

Serial No. 10/660,411

Filed: September 10, 2003

For: Reduced Abrasion Shoe

Examiner: not yet assigned

Art Unit: 3728

PETITION UNDER 37 C.F.R. § 1.47(a)
REQUESTING WAIVER OF SIGNATURES
BY MS. TRACY BYRNES AND MR. SEAN SULLIVAN

Mail Stop: Missing Parts
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

Applicant hereby petitions the Commissioner to accept the declaration submitted by the assignee applicant and to waive the requirement that Ms. Tracy Byrnes and Mr. Sean Sullivan sign the declaration in this case. As demonstrated by the below facts, Ms. Byrnes and Mr. Sullivan had an employer/employee relationship with the assignee applicant, acknowledged the assignee applicant's ownership of the inventions, and have refused to sign the declaration despite an obligations to do so. The assignee applicant has made a diligent effort to obtain Ms. Byrnes's and Mr. Sullivan's signatures.

A check in the amount of \$130.00 is enclosed for consideration of this petition. Please charge Deposit Account No. 08-2623 for any others fees that may be required for consideration of this petition.

FACTS IN SUPPORT

The below factual account is based on actual knowledge to those facts performed by the agent and information and belief to those performed by others.

1. On September 10, 2003, the assignee applicant caused to be filed United States Patent Application Serial Number 10/660,411. This application was caused to be filed in view of a potential loss of rights relating to an associated product release date. The loss of rights would have caused irreparable harm to the assignee applicant.
2. Mark Kerns, a product manager relating to the invention, reviewed the application as the actual inventors were not available. Mr. Kerns reviewed the application under the supervision of Mr. Jerry Edwards, the president of the assignee applicant. Mr. Edwards has also reviewed the application as evidenced by the declaration signed by Mr. Edwards.
3. On September 19, 2003, a copy of the filed application including the drawings was mailed to Ms. Bynres at her last known address by certified mail, #7001 0320 0005 8119 9826, a copy of which is attached to this petition. (See Exhibit A)
4. The United States Post Office forwarded the certified mail to Ms. Bynres's new residence (which address is currently unknown to us).
5. Ms. Bynres received and signed for the certified mail on September 29, 2003, a copy of the signed receipt is attached to this petition also. (See Exhibit B)
6. The correspondence requested that Ms. Bynres review the application and requested she sign the declaration if she believed she was an inventor of the

subject matter claimed by the application.

7. The correspondence also requested that Ms. Byrnes contact the undersigned and/or return the signed declaration no later than October 31, 2003.
8. At this time, neither the assignee applicant nor the undersigned attorney have received any correspondence from Ms. Byrnes relating to signing the declaration.
9. Ms. Byrnes last known address was 1286 Banner Circle, Erie, CO 80516.
10. September 19, 2003, a copy of the filed application including the drawings was mailed to Mr. Sullivan at his last known address by certified mail, #7001 0320 0005 8119 9819, a copy of which is attached to this petition. (See Exhibit C)
11. The United States Post Office forwarded the certified mail to Mr. Sullivan's new residence (which address is currently unknown to us).
12. Mr. Sullivan received and signed for the certified mail on September 26, 2003, a copy of the signed receipt is attached to this petition also. (See Exhibit D)
13. The correspondence requested that Mr. Sullivan review the application and requested he sign the declaration if he believed he was an inventor of the subject matter claimed by the application.
14. The correspondence also requested that Mr. Sullivan contact the undersigned and/or return the signed declaration no later than October 31, 2003.
15. At this time, neither the assignee applicant nor the undersigned attorney have received any correspondence from Mr. Sullivan relating to signing the declaration.
16. Mr. Sullivan's last known address was 843 Racquet Lane, Boulder, CO 80303.

17. During the invention of the subject matter of the present patent application, Ms. Byrnes and Mr. Sullivan were employees of the assignee applicant.
18. Mr. Jerry Edwards, who is the president of the assignee applicant, has signed the declaration on behalf of the assignee applicant and attested that the inventors were employed by the assignee applicant at the time of invention of the present patent application.
19. Attached to the correspondence sent to the inventors (see paragraphs 3 and 10) was an employment agreement signed by the respective inventors acknowledging that any work or products belong to and will remain the company's property. (See paragraph 4 of the agreements). (See Exhibit E)
20. The employment agreement was supplemented by DashAmerica, Inc.'s employee handbook, the relevant portion of which is attached hereto. Paragraph 6 of the submitted portion states: "The Employee acknowledges that during his or her testing for the Corporation, he or she may make, develop, or conceive inventions, discoveries, concepts, ideas, information and improvements, either patentable or not, arising out of such engagement and which relate to or are useful in the business or activities in which the Corporation is or may become engaged, and which may or may not also constitute confidential information ("Improvements"). Employee agrees to disclose promptly to the Corporation, any Improvements that Employee may make, develop, or conceive arising out of his or her engagement by the Corporation. All such Improvements shall be and remain the property of the Corporation. Employee hereby assigns (and agrees to assign) to the

Corporation all his or her right, title, and interest in such Improvements ...”

(See Exhibit F)

21. Because the deadline to file a response to the Notification of Missing Requirements expires on February 2, 2004, it is respectfully requested that inventor signatures be waived and the declaration by the assignee applicant be accepted.

Therefore, it is respectfully requested that this petition be granted.

Signed this 30 day of January 2004.

Respectfully submitted,



Brian Kinnear, Reg. No. 43,717
Holland & Hart LLP
555 17th Street, Suite 2700
Denver, CO 80202
Telephone: (303) 295-8000
Facsimile: (303) 295-8261

HOLLAND & HART LLP
ATTORNEYS AT LAW

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BOULDER • COLORADO SPRINGS
DENVER TECH CENTER
BILLINGS • BOISE
CHEYENNE • JACKSON HOLE
SALT LAKE CITY • SANTA FE
WASHINGTON, D.C.

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Brian P. Kinnear
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(303) 295-8261 Fax
bkinnear@hollandhart.com

September 19, 2003

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Ms. Tracy Byrnes
1286 Banner Circle
Erie, CO 80516

Re: Newly Filed United States Patent Application
Titled: REDUCED SKIN ABRASION SHOE
H&H Ref.: 35693.830003.US0

Dear Ms. Byrnes:

Holland & Hart LLP represents DashAmerica, Inc d/b/a Pearl Izumi in intellectual property matters. Recently, we filed a patent application for Pearl Izumi relating to a reduced skin abrasion shoe. In particular, the patent application related to running shoes having a tongue connected to the upper by an external seam, a full linear with a seam about the mid-sole, and a heat fused patch.

As a condition of your employment with Pearl Izumi, you entered an Agreement on July 5, 2001, a copy of which is enclosed (the "Agreement"). Paragraph four of the Agreement states "that all work and products I may create or develop during work hours for the company or using the company's premises or any of its equipment or supplies, are work made for hire that belongs to the company and will remain the company's property." Thus, you have already acknowledged that Pearl Izumi owns the entire right, title, and interest in the reduced skin abrasion shoe invention.

Even though Pearl Izumi owns the invention pursuant to the Agreement, in the United States, the inventors of an invention for which a patent application is filed should sign a declaration that they are the original, first and joint (or sole) inventors of a claimed invention. Pearl Izumi believes you may be an inventor of one or more aspects of the above-referenced patent application.

Thus, in accordance with your obligations, please review the attached patent application, and if you believe you are an inventor, please sign the declaration where indicated and return the same to me in the enclosed overnight

HOLLAND & HART^{LLP}
ATTORNEYS AT LAW

Ms. Tracy Byrnes
September 19, 2003
Page 2

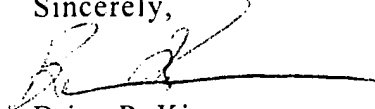
envelope. If you do not believe you are an inventor, please let me know as soon as possible.

Also included with this correspondence is an assignment of the invention contained in the patent application to Pearl Izumi. This assignment formalizes your obligation to assign the invention to Pearl Izumi and is in accordance with paragraph four of the Agreement. Please execute the assignment were indicated and return the same to me in the enclosed overnight envelope as well.

We request that you review the patent application, and execute the declaration and assignment as soon as possible, but in no event later than October 31, 2003. If we have not received the executed documents by October 31, 2003, we will assume you are refusing to sign the documents. If you refuse to sign the documents, we will proceed with this patent application by requesting that the Patent Office waive the requirements that you sign, which requests are normally granted.

If you have any questions regarding the above, we would be happy to answer them for you. Thank you for your cooperation and prompt attention to this matter.

Sincerely,



Brian P. Kinnear
for Holland & Hart^{LLP}

Enclosures

COPY

PATENT

Attorney Docket No. 35693.830003.US0

Express Mail No. EV269463184US

**COMBINED DECLARATION AND POWER
OF ATTORNEY FOR PATENT APPLICATION**

DECLARATION:

As the below named inventors, we hereby declare that:

Our residences, post office addresses and citizenships are as stated below next to our names.

We believe we are original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled REDUCED SKIN ABRASION SHOE, the specification of which is filed herewith, and attorney docket number 35693.830003.US0.

The persons named as inventors in this application are TRACY BYRNES and SEAN SULLIVAN.

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56. If this application is identified above as a continuation-in-part application above, we acknowledge the duty to disclose to the Office all information known to us to be material to patentability as defined in §1.56 which became available between the filing date of the prior application and the filing date of this continuation-in-part application.

No prior foreign application for patent or inventors' certificate has been filed.

Priority claim is made.

Application No.	Filing Date	Status

POWER OF ATTORNEY:

As named inventor, I hereby appoint Brian P. Kinnear, Reg. No. 43,717, Francis A. Sirr, Reg. No. 17,265, Chris Kulish, Reg. No. 33,056, L. Grant Foster, Reg. No. 33,236, Trent

Baker, Reg. No. 46,534, James R. Farmer, Reg. No. 47,555, Thomas Osborne, Reg. No. 39,796; and Christopher Wight, Reg. No. 31,680; to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Send all correspondence to: Brian Kinnear, HOLLAND & HART LLP, 555 17th Street, Suite 3200, Denver, Colorado 80202-3979, and direct telephone calls to Brian Kinnear, telephone number 303-295-8170.

We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name:	Tracy Byrnes
Inventor's Signature:	
Date:	
Residence: (City, State and/or Country)	
Citizenship:	USA
Post Address Office:	(same as above)

Inventor's Full Name:	Sean Sullivan
Inventor's Signature:	
Date:	
Residence: (City, State and/or Country)	
Citizenship:	USA
Post Address Office:	(same as above)

§ 1.56 duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the

time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction

consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Each other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.

ASSIGNMENT

WHEREAS, we Tracy BYRNES and Sean SULLIVAN, have made a certain new and useful invention relating to REDUCED SKIN ABRASION SHOE, for which we have made application for Letters Patent of the United States, said application being identified as Attorney Docket No. 35693.830003.US0;

WHEREAS, DashAmerica Inc. (hereinafter "Assignee"), a _____ corporation, whose post office address is 620 Compton Street, Broomfield, Colorado 80020, is desirous of acquiring the entire interest in and to said invention, said application, and the Letters Patent to be obtained therefor;

NOW THEREFORE, for valuable consideration, receipt and adequacy of which is hereby acknowledged, we have sold, assigned, and set over, and do hereby sell, assign, and set over, unto the Assignee and said Assignee's legal representatives, successors, and assigns, the entire right, title, and interest in and to said invention, said application, and the Letters Patent, both foreign and domestic, that may or shall issue thereon; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to the above-mentioned Assignee, consistent with the terms of this Assignment.

UPON SAID CONSIDERATION, we do hereby covenant and agree with the said Assignee that we will not execute any writing or do any act whatsoever conflicting with these presents, and that we will, at any time upon request, without further or additional consideration, but at the expense of the said assignee, execute such additional assignments and other writings and do such additional acts as said Assignee may deem necessary or desirable to perfect the Assignee's enjoyment of this grant, and render all necessary assistance in making application for and obtaining original, divisional, continuation, continuation-in-

part, renewal, continuing, reissued or extended Letters Patent of the United States, or of any and all foreign countries, on said invention, and in enforcing any rights or chose in action accruing as a result of such applications or patents, by giving testimony in any proceedings or transactions involving such applications or patents, and by executing preliminary statements and other affidavits, it being understood that the foregoing covenant and agreement shall bind, and inure to the benefit of, the assigns and legal representatives of both parties.

IN WITNESS WHEREOF, and having read this entire document including all prior pages, we have hereunto set our hands and affixed our seals on the date hereinafter set forth.

Date: _____

Tracy BYRNES

Date: _____

Sean SULLIVAN

3129850_1.DOC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Tracy Byrnes et al.

Serial No.

Filed: HERewith

For: REDUCED SKIN ABRASION SHOE

Examiner:

Art Unit:

CERTIFICATE OF MAILING BY EXPRESS MAIL

Mail Stop: PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

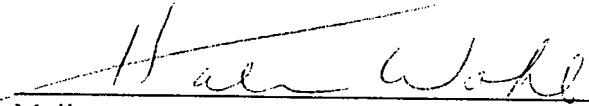
The undersigned hereby certifies that the enclosed

1. Utility Patent Application Transmittal;
2. Specification, Claims and Abstract;
3. 3 Sheets of Drawings;
4. Fee Transmittal for FY 2003;
5. Check in the Amount of \$417.00;
6. Certificate of Mailing by Express Mail; and
7. Return Card,

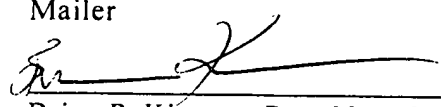
relating to the above application, were deposited as "Express Mail," Mailing Label No. EV269463184US with the United States Postal Service, addressed to Commissioner for Patents, Mail Stop: PATENT APPLICATION, P.O. Box 1450, Alexandria, VA 22313, on this September 16, 2003.

September 16, 2003

September 10, 2003



Mailer



Brian P. Kinnear, Reg. No. 43,717
HOLLAND & HART LLP
555-17th Street, Suite 3200
Post Office Box 8749
Denver, Colorado 80202
Telephone: (303) 295-8170
Facsimile: (303) 295-8261

Please type a plus sign (+) inside this box ☐

PTO/SB/05 (03-01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL		Attorney Docket No. 35693.830003.US0	
		First Inventor Tracy Byrnes et al.	
		Title REDUCED SKIN ABRASION SHOE	
<small>(Only for new nonprovisional applications under 37 CFR 1.53(b))</small>		Express Mail Label No. EV269463184US	

APPLICATION ELEMENTS <small>See MPEP chapter 600 concerning design patent application contents.</small> 1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <small>(Submit an original, and a duplicate for fee processing)</small> 2. <input checked="" type="checkbox"/> Applicant claims small entity status. <small>See 37 CFR 1.27.</small> 3. <input checked="" type="checkbox"/> Specification [Total Pages 12] <small>(preferred arrangement set forth below)</small> <ul style="list-style-type: none">- Descriptive title of the invention- Cross Reference to the Related Applications- Statement Regarding Fed sponsored R & D- Reference to sequence listing, a table or a computer program listing appendix- Background of the Invention- Brief Summary of the Invention- Brief Description of the Drawings (if filed)- Detailed Description- Claim(s)- Abstract of the Disclosure 4. <input checked="" type="checkbox"/> Drawings(s) (35 U.S.C. 113) [Total Sheets 3] 5. <input checked="" type="checkbox"/> Oath or Declaration [Total Pages 1] a. <input type="checkbox"/> Newly executed (original or copy) b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <small>(for continuation/divisional with Box 18 completed)</small> i. <input type="checkbox"/> DELETION OF INVENTOR(S) <small>Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)</small> 6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76	ADDRESS TO: Commissioner for Patents Mail Stop: Patent Application Alexandria, VA 22313-1450 7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix) 8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) a. <input type="checkbox"/> Computer Readable Form (CRF) b. <input type="checkbox"/> Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statements verifying identity of above copies ACCOMPANYING APPLICATION PARTS 9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s)) 10. <input type="checkbox"/> 37 CFR 3.73(b) Statement (when there is an assignee) <input type="checkbox"/> Power of Attorney 11. <input type="checkbox"/> English Translation Document (if applicable) 12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 13. <input type="checkbox"/> Preliminary Amendment 14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <small>(Should be specifically itemized)</small> 15. <input type="checkbox"/> Certified Copy of Priority Document(s) <small>(if foreign policy is claimed)</small> 16. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent. 17. <input type="checkbox"/> Other: _____
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18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: _____

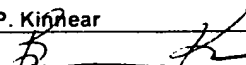
Prior application information: Examiner _____ Group Art Unit: _____

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

<input checked="" type="checkbox"/> Customer Number or Bar Code Label	 26582	<input type="checkbox"/> Correspondence address below
---	--	---

Name	Brian P. Kinnear				
	Holland & Hart				
Address	555 17 th Street, Suite 3200				
City	Denver	State	Colorado	Zip Code	80202
Country	USA	Telephone	303-295-8170	Fax	303-295-8000

Name (Print/Type) Brian P. Kinnear	Registration No. (Attorney/Agent) 43,717
Signature 	Date September 10, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231. 3129286_1.DOC

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FEE TRANSMITTAL FOR FY 2003		Complete if Known	
Patent fees are subject to annual revision		Application Number	
		Filing Date	Herewith
		First Named Inventor	Tracy Byrnes et al.
		Examiner Name	not yet assigned
		Group Art Unit	not yet assigned
		Attorney Docket No.	35693.830003.US0
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 C.F.R. 1.27			
TOTAL AMOUNT OF PAYMENT (\$)		417.00	

METHOD OF PAYMENT	FEE CALCULATION (continued)																																																																																																																																																																																																				
<input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 08-2623 Deposit Account Name: The Commissioner is authorized to: (Check all that apply) <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified account.	3. ADDITIONAL FEES <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for <i>ex parte</i> reexamination</td><td></td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>1252</td><td>410</td><td>2252</td><td>205</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1253</td><td>930</td><td>2253</td><td>465</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1254</td><td>1450</td><td>2254</td><td>725</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>1255</td><td>1970</td><td>2255</td><td>985</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td><td></td></tr> <tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Brian Kinnear	Registration No. (Attorney/Agent)	43,717
Signature		Telephone	303-295-8170
		Date	September 12, 2003

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PATENT

Attorney Docket No. 35693.830003.US0

Express Mail No. EV269463184US

IN RE UNITED STATES PATENT APPLICATION

FOR

REDUCED SKIN ABRASION SHOE

OF

TRACY BYRNES

AND

SEAN SULLIVAN

REDUCED SKIN ABRASION SHOE

FIELD OF THE INVENTION

The present invention relates to shoes and, more particularly, to a sport shoe with reduced foot abrasion.

5 BACKGROUND OF THE INVENTION

Shoes have been specialized and improved for years. Currently, shoe manufacturers and designers provide specialized shoes for many activities, such as, for example, running shoes, tennis shoes, cycling shoes, walking shoes, cross-trainers, and the like. These shoes can be designed to respond to particular pressures and hot spots for the assumed usage.

The design of the shoe, however, has only come so far. Many shoes also include inserts, liners, padding, environmental protection, and the like. Many of these designs reduce moisture and heat generated by the foot within the shoe. Reducing the moisture and heat provides some reduction in foot or skin abrasion against the shoe, which in turn reduces blistering and the like. For example, liners are typically made out of a breathable material. Inserts may include moisture absorbing or wicking properties.

Despite the above and other improvements to shoe designs, many users experience blistering or other irritation on their feet when performing more strenuous activities than, for example, walking. In particular, internal seams where a shoe tongue and external patches are connected to the shoe provide irritants. Thus, it would be desirable to develop an improved shoe to reduce skin abrasion.

SUMMARY OF THE INVENTION

25 To attain the advantages and in accordance with the present invention, a reduced abrasion shoe is provided. The shoe comprises a sole and an upper

forming an interior foot portion and an exterior portion. The upper of the shoe includes a toe box, a throat, and a heel. A tongue is coupled to the upper such that the seam resides on the exterior surface of the toe box. The tongue also includes the transition being where the tongue transitions from the exterior
5 surface to the interior cavity.

Another embodiment of the present invention provides a reduced abrasion shoe having a sole and an upper coupled to the sole. The upper and the sole form an exterior surface and an interior cavity. The upper includes a toe box, a throat, and a heel along with a tongue traversing the throat area. A
10 liner between the upper and the interior cavity is coupled to the upper about the mid-point of the shoe.

Still another embodiment of the present invention provides a reduced abrasion shoe having a sole and an upper coupled to the sole. The upper and the sole form an exterior surface and an interior cavity. The upper includes
15 along with a tongue that that traverses the throat. At least one patch is coupled to the exterior surface using a weld.

The foregoing and other features, utilities and advantages of the invention will be apparent from the following more particular description of a preferred embodiment of the invention as illustrated in the accompanying
20 drawings.

BRIEF DESCRIPTION OF THE DRAWING

The accompanying drawings, which are incorporated in and constitute a part of this specification, illustrate embodiments of the present invention, and together with the description, serve to explain the principles thereof.

25 Like items in the drawings are referred to using the same numerical reference.

FIG. 1 is a top side elevation of a shoe constructed in accordance with an embodiment of the present invention;

FIGS. 2 is a cross-section view of a shoe constructed in accordance with another embodiment of the present invention; and

FIG. 3 is rear elevation view of a shoe constructed in accordance with another embodiment of the present invention.

DETAILED DESCRIPTION

The present invention will be described with reference to FIGS. 1-3.

5 While the present invention is shown and described with regard to a running shoe, one of ordinary skill in the art would recognize on reading the disclosure that alternative shoes styles could use the invention described herein, and the use of a running shoe is exemplary and non-limiting. Other styles of shoes that would benefit from the present invention include, without
10 limitation, cycling shoes, sport cleats, basketball shoes, tennis shoes, and walking shoes

FIG. 1 shows a top elevation view of a running shoe 100. Running shoe 100 includes a sole 102 and an upper 104. Sole 102 and upper 104 form an internal cavity 106 to accept a user's foot and an external portion 108.

15 Upper 104 has a throat 110. A tongue 112 traverses throat 110 and is attached to upper 104 by a seam 114 at a toe box portion 116 of shoe 100. Seam 114 could be any conventional seam or connection, such as, for example, a stitch, a heat fusion seam, or the like.

Upper 104, typically, has two symmetrical boarders 118 outlining
20 throat 110. Loops 120 are conventionally connected to boarders 118. One or more laces 122 traverse throat 110 by threading through loops 120 in a zigzag pattern. Loops 110 and laces 122 could be replaced by other conventional tightening devices, such as strips of hook and loop material, such as, VELCRO®.

25 As can be seen in FIG. 1, seam 114 resides on external portion 108 of shoe 100. Thus, upper 104 is between seam 114 and the foot of a user. Because seam 114 is separated from the foot, skin abrasion or friction is reduced. The reduction in abrasion and/or friction reduces irritation. Seam 114 ends at a transition portion 124. As seen, tongue 112 is attached on
30 external portion 108 about toe box 116, but tongue 112 resides in the internal

cavity 106 below symmetrical borders 118, which allows laces 122 to reside in external portion 108. Thus, transition portion 124 guides tongue 112 from being in external portion 108 to internal portion 106.

Referring now to FIG. 2, another shoe 200 consistent with the present invention is shown. Shoe 200 comprises a sole 202 and an upper 204. Upper 204 has an interior side 206 and an exterior side 208 (not specifically labeled in the figure). Sole 202 and interior side 206 define a cavity 210 to accept a user's foot. A liner 212 resides between interior side 206 and the user's foot. Liner 212 is attached to interior side 206 about the instep, midsole, or mid-point of the shoe by a seam 214. In this case, seam 214 is a conventional stitch, but could be a heat welded seam or the like. As can be seen, liner 212 lines the entire cavity 210. Lining the entire cavity with the protective layer reduces skin abrasion. Also, providing seam 214 about the foot arch or instep of the shoe additionally reduces friction, in part because of the lower pressures those portions of the foot are subject to and, in part, because less of the foot is exposed to the seam. Liner 212 could be any number of low friction materials, such as, for example, a mesh liner. Further, liner 212 could be loaded with moisture wicking or absorbing materials 216 to further reduce skin abrasion.

FIG. 3 shows a rear elevation view of a shoe 300. Shoe 300 includes a sole 302 and an upper 304. Upper 304 includes a toe box 306, a throat 308, and a heel 310. A patch 312 is coupled to shoe 300 about heel 310. Patch 312 provides upper 304 protection from the environment, such as, for example, scuffing the shoe. Patch 312 could be located in one or more places on the shoe. For example, many shoes have patches on heel 310 and toe box 306. Patch 312 could comprise leather, synthetic leather, rubber, or other composites as desired.

As mentioned in the background of the invention, conventional methods to couple patch 312 to upper 304 use a stitch. The stitch, however, causes a corresponding seam on in an interior portion 314 of shoe 300. In order to remove the seam on interior portion 314 of shoe 300, patch 312 is

welded to upper 304 along weld line 316. By welding patch 312 to upper 304, an irritant, namely the interior seam, is removed. Removing the irritant reduces skin abrasion and friction.

5 While the invention has been particularly shown and described with reference to an embodiment thereof, it will be understood by those skilled in the art that various other changes in the form and details may be made without departing from the spirit and scope of the invention.

We claim:

1. A reduced abrasion shoe, comprising:
a sole;
an upper coupled to the sole;
the upper and the sole forming an exterior surface and an interior
5 cavity;
the upper comprising a toe box, a throat, and a heel;
a tongue coupled to the upper such that the seam resides on the exterior
surface of the toe box; and
the tongue comprising a portion on the exterior surface and a portion in
10 the interior cavity, and a transition, the transition being where the tongue
transitions from the exterior surface to the interior cavity.
2. The shoe according to claim 1, further comprising a liner
between the upper and the interior cavity.
3. The shoe according to claim 2, wherein the liner is coupled to
the upper about the mid-point of the shoe.
4. The shoe according to claim 3, wherein the liner is coupled to
the upper using a stitch.
5. The shoe according to claim 1, further comprising a patch
coupled to the exterior surface
6. The shoe according to claim 5, wherein the patch is coupled to
the exterior surface by a weld without causing a seam in the interior cavity.
7. The shoe according to claim 3, further comprising a patch
coupled to the exterior surface using a weld without causing a seam in the
interior cavity.

8. The shoe according to claim 7, wherein the shoe comprises a shoe from the group consisting of a cycling shoe, a running shoe, a tennis shoe, a sneaker, a soccer shoe, a bowling shoe, a football shoe, a cleat, a basketball shoe, and a golf shoe.

9. A reduced abrasion shoe, comprising:
a sole;
an upper coupled to the sole;
the upper and the sole forming an exterior surface and an interior
5 cavity;
the upper comprising a toe box, a throat, and a heel;
a tongue coupled to the upper, the tongue traversing the throat; and
a liner between the upper and the interior cavity, the liner coupled to
upper about the mid-point of the shoe.
- 10
10. The shoe according to claim 9, wherein the liner comprises a
mesh material.
12. The shoe according to claim 9, wherein the liner comprises a
low friction material.
12. The shoe according to claim 11, wherein the tongue is coupled
to the toe box such that the seam resides on the exterior surface.
13. The shoe according to claim 9, further comprising a patch
coupled to the exterior surface of the upper.
14. The shoe according to claim 13, wherein the patch is coupled to
the exterior surface using a weld without causing a seam in the interior cavity.

15. A reduced abrasion shoe, comprising:
a sole;
an upper coupled to the sole;
the upper and the sole forming an exterior surface and an interior
5 cavity;
the upper comprising a toe box, a throat, and a heel;
a tongue coupled to the upper that traverses the throat; and
at least one patch coupled to the exterior surface using a weld.
16. The shoe according to claim 15, wherein the at least one patch
comprises at least one of a synthetic leather and a high-density rubber.
17. The shoe according to claim 15, wherein the at least one patch
comprises at least one patch coupled to the heel portion of the upper.

18. A reduced abrasion shoe, comprising:
- a sole;
 - an upper coupled to the sole;
 - the upper and the sole forming an exterior surface and an interior
- 5 cavity;
- the upper comprising a toe box, a throat, and a heel;
 - a tongue coupled to the upper such that the seam resides on the exterior
- surface of the toe box;
- the tongue comprising a portion on the exterior surface and a portion in
- 10 the interior cavity, and a transition, the transition being where the tongue
- transitions from the exterior surface to the interior cavity;
- a liner between the upper and the interior cavity, the liner coupled to
- upper about the mid-point of the shoe; and
- at least one patch coupled to the exterior surface of the shoe, wherein
- 15 the at least one patch is coupled to the exterior surface using a fusion bond.

ABSTRACT

The present invention relates to a reduced abrasion shoe. The reduced abrasion shoe comprises strategically removing seams from the interior cavity of the shoe. In particular, the tongue traversing the throat is attached to the exterior surface of the upper about the toe box. A full liner between the upper
5 and the interior cavity is coupled to the upper about the shoe mid-point. Finally, exterior surface patches are coupled to the exterior surface using a fusion bond instead of a stitch to remove the corresponding interior seam.

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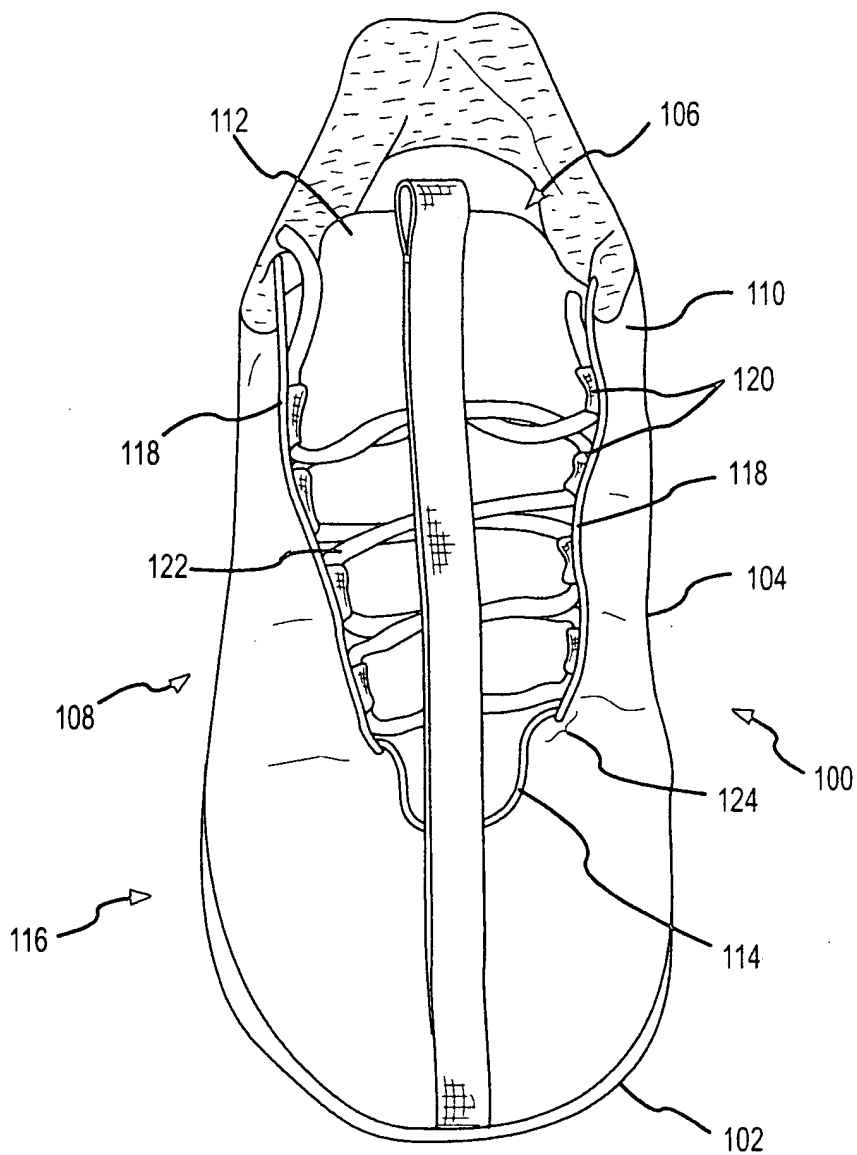


FIG. 1

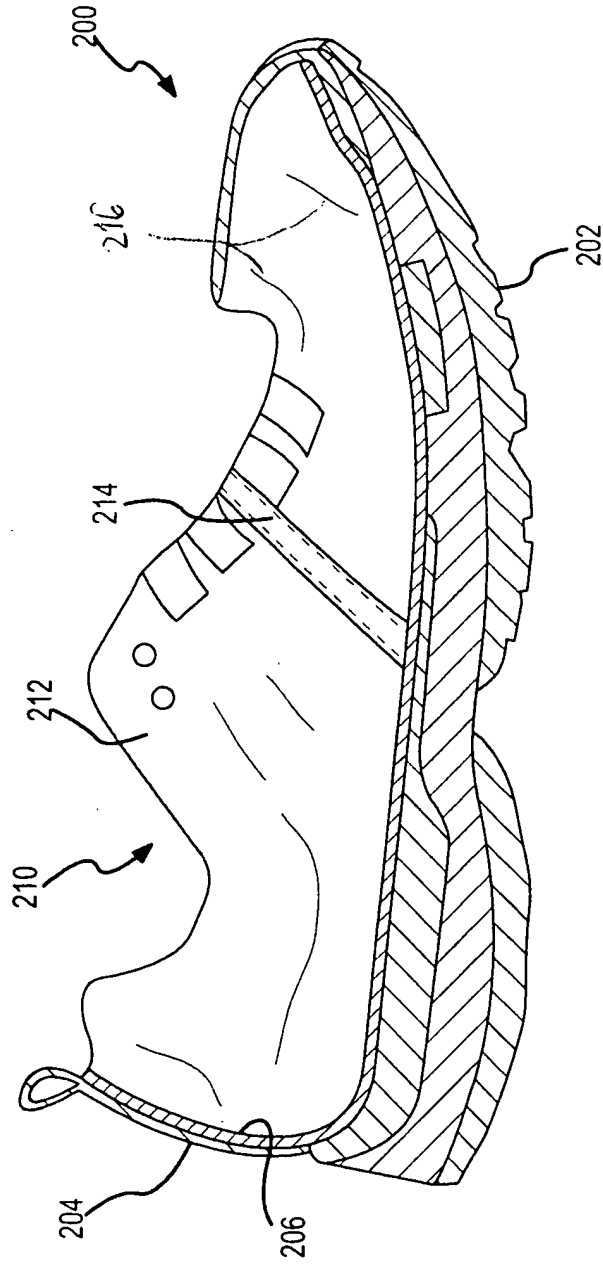


FIG. 2

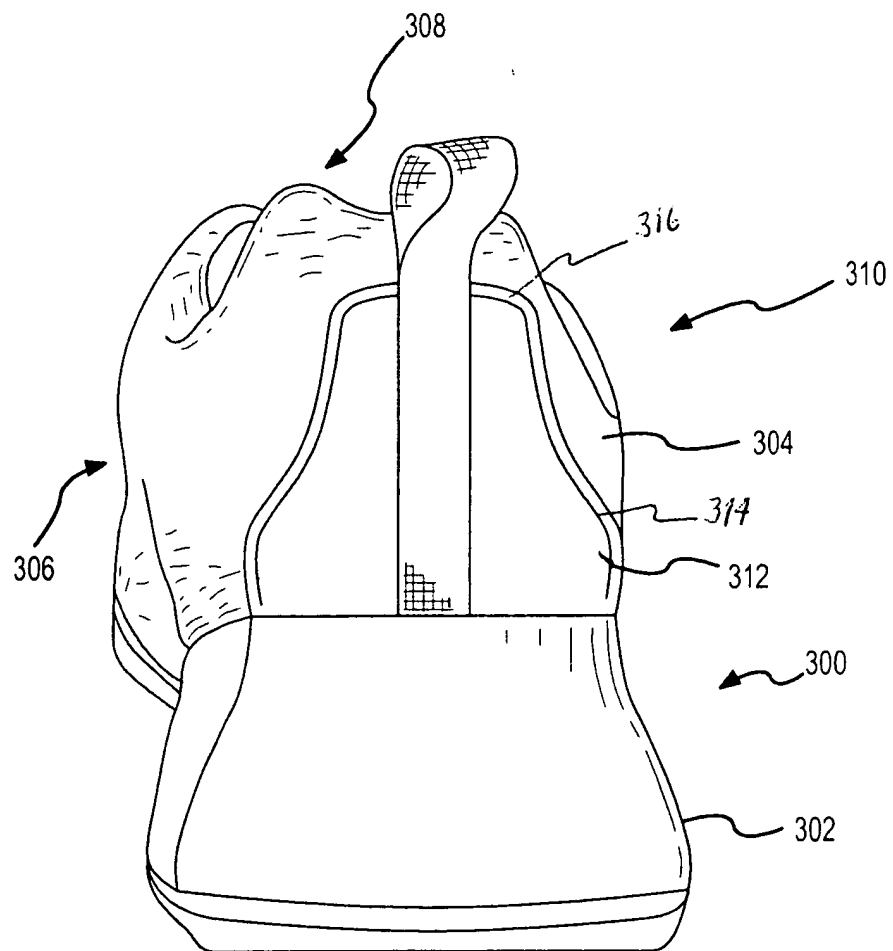


FIG.3

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article

Tracy M. Byrnes
1286 Banner Circle
Erie, CO 80516

DASH AMERICA

35693.0027(B. Kinnear)

5. Received By: (Print Name)

830003.450

6. Signature: (Addressee or Agent)

X

[Signature]

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
- 2. ☐ Restricted Delivery

Consult postmaster for fee.

7001 0320 0005 8119 9826

4b. Service Type

- ☐ Registered ☐ Certified
- ☐ Express Mail ☐ Insured
- ☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

9/29/13

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-97-B-0179

Domestic Return Receipt

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

Postage

\$ 1.29*

Certified Fee

2.30*

Return Receipt Fee
(Endorsement Required)

1.75*

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$ 5.34

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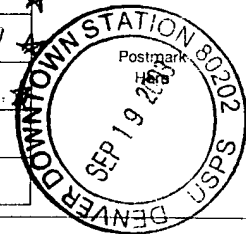
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or PO Box No. 1286 Banner Circle
City, State, Zip Erie, CO 80516

35693-83000
450

PS Form 3800 January 2001

See Reverse for Instructions

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September 19, 2003

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Sean Sullivan
843 Racquet Lane
Boulder, CO 80303

Re: Newly Filed United States Patent Application
TITLE: REDUCED SKIN ABRASION SHOE
H&H Ref.: 35693.830003.US0

Dear Mr. Sullivan:

Further to our correspondence of August 14, 2003, which you received August 30, 2003, we are forwarding you a declaration and assignment for another patent application in which Pearl Izumi believes you are an inventor. In particular, the patent application related to running shoes having a tongue connected to the upper by an external seam, a full linear with a seam about the mid-sole, and a heat fused patch. You may recall authorizing the preparation and filing of this application when you were with Pearl Izumi.

Thus, in accordance with your obligations, as outlined in our previous correspondence, please review the attached patent application, and if you believe you are an inventor, please sign the declaration where indicated and return the same to me in the enclosed overnight envelope. If you do not believe you are an inventor, please let me know as soon as possible.

Also included with this correspondence is an assignment of the invention contained in the patent application to Pearl Izumi. This assignment formalizes your obligation to assign the invention to Pearl Izumi and is in accordance with paragraph four of the Agreement. Please execute the assignment where indicated and return the same to me in the enclosed overnight envelope as well.

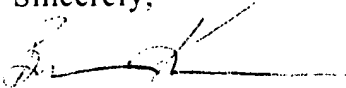
We request that you review the patent application, and execute the declaration and assignment as soon as possible, but in no event later than October 31, 2003. If we have not received the executed documents by October 31, 2003, we will assume you are refusing to sign the documents.

HOLLAND & HART ^{LLP}
ATTORNEYS AT LAW

Mr. Sean Sullivan
September 19, 2003
Page 2

If you have any questions regarding the above, we would be happy to answer them for you. Thank you for your cooperation and prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Kinnear", written over a horizontal line.

Brian P. Kinnear
for Holland & Hart ^{LLP}

Enclosures

COPY

PATENT

Attorney Docket No. 35693.830003.US0

Express Mail No. EV269463184US

**COMBINED DECLARATION AND POWER
OF ATTORNEY FOR PATENT APPLICATION**

DECLARATION:

As the below named inventors, we hereby declare that:

Our residences, post office addresses and citizenships are as stated below next to our names.

We believe we are original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled REDUCED SKIN ABRASION SHOE, the specification of which is filed herewith, and attorney docket number 35693.830003.US0.

The persons named as inventors in this application are TRACY BYRNES and SEAN SULLIVAN.

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56. If this application is identified above as a continuation-in-part application above, we acknowledge the duty to disclose to the Office all information known to us to be material to patentability as defined in §1.56 which became available between the filing date of the prior application and the filing date of this continuation-in-part application.

No prior foreign application for patent or inventors' certificate has been filed.

Priority claim is made.

Application No.	Filing Date	Status

POWER OF ATTORNEY:

As named inventor, I hereby appoint Brian P. Kinnear, Reg. No. 43,717, Francis A. Sirr, Reg. No. 17,265, Chris Kulish, Reg. No. 33,056, L. Grant Foster, Reg. No. 33,236, Trent

Baker, Reg. No. 46,534, James R. Farmer, Reg. No. 47,555, Thomas Osborne, Reg. No. 39,796; and Christopher Wight, Reg. No. 31,680; to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Send all correspondence to: Brian Kinnear, HOLLAND & HART LLP, 555 17th Street, Suite 3200, Denver, Colorado 80202-3979, and direct telephone calls to Brian Kinnear, telephone number 303-295-8170.

We hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Full Name:	Tracy Byrnes
Inventor's Signature:	
Date:	
Residence: (City, State and/or Country)	
Citizenship:	USA
Post Address Office:	(same as above)

Inventor's Full Name:	Sean Sullivan
Inventor's Signature:	
Date:	
Residence: (City, State and/or Country)	
Citizenship:	USA
Post Address Office:	(same as above)

§ 1.56 duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the

time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction

consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Each other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.

ASSIGNMENT

WHEREAS, we Tracy BYRNES and Sean SULLIVAN, have made a certain new and useful invention relating to REDUCED SKIN ABRASION SHOE, for which we have made application for Letters Patent of the United States, said application being identified as Attorney Docket No. 35693.830003.US0;

WHEREAS, DashAmerica Inc. (hereinafter "Assignee"), a _____ corporation, whose post office address is 620 Compton Street, Broomfield, Colorado 80020, is desirous of acquiring the entire interest in and to said invention, said application, and the Letters Patent to be obtained therefor;

NOW THEREFORE, for valuable consideration, receipt and adequacy of which is hereby acknowledged, we have sold, assigned, and set over, and do hereby sell, assign, and set over, unto the Assignee and said Assignee's legal representatives, successors, and assigns, the entire right, title, and interest in and to said invention, said application, and the Letters Patent, both foreign and domestic, that may or shall issue thereon; and we do hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to the above-mentioned Assignee, consistent with the terms of this Assignment.

UPON SAID CONSIDERATION, we do hereby covenant and agree with the said Assignee that we will not execute any writing or do any act whatsoever conflicting with these presents, and that we will, at any time upon request, without further or additional consideration, but at the expense of the said assignee, execute such additional assignments and other writings and do such additional acts as said Assignee may deem necessary or desirable to perfect the Assignee's enjoyment of this grant, and render all necessary assistance in making application for and obtaining original, divisional, continuation, continuation-in-

part, renewal, continuing, reissued or extended Letters Patent of the United States, or of any and all foreign countries, on said invention, and in enforcing any rights or chose in action accruing as a result of such applications or patents, by giving testimony in any proceedings or transactions involving such applications or patents, and by executing preliminary statements and other affidavits, it being understood that the foregoing covenant and agreement shall bind, and inure to the benefit of, the assigns and legal representatives of both parties.

IN WITNESS WHEREOF, and having read this entire document including all prior pages, we have hereunto set our hands and affixed our seals on the date hereinafter set forth.

Date: _____

Tracy BYRNES

Date: _____

Sean SULLIVAN

3129850_1.DOC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Tracy Byrnes et al.

Serial No.

Filed: HEREWITH

For: REDUCED SKIN ABRASION SHOE

Examiner:

Art Unit:

CERTIFICATE OF MAILING BY EXPRESS MAIL

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned hereby certifies that the enclosed

1. Utility Patent Application Transmittal;
2. Specification, Claims and Abstract;
3. 3 Sheets of Drawings;
4. Fee Transmittal for FY 2003;
5. Check in the Amount of \$417.00;
6. Certificate of Mailing by Express Mail; and
7. Return Card,

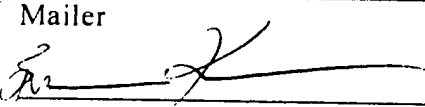
relating to the above application, were deposited as "Express Mail," Mailing Label No. EV269463184US with the United States Postal Service, addressed to Commissioner for Patents, Mail Stop: PATENT APPLICATION, P.O. Box 1450, Alexandria, VA 22313, on this September 10, 2003.

September 10, 2003

September 10, 2003



Mailer



Brian P. Kinnear, Reg. No. 43,717
HOLLAND & HART LLP
555-17th Street, Suite 3200
Post Office Box 8749
Denver, Colorado 80202
Telephone: (303) 295-8170
Facsimile: (303) 295-8261

Please type a plus sign (+) inside this box ☐

PTO/SB/05 (03-01)

Approved for use through 10/31/2002 OMB 0651-0032

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UTILITY PATENT APPLICATION TRANSMITTAL <small>(Only for new nonprovisional applications under 37 CFR 1.53(b))</small>		Attorney Docket No. 35693.830003.US0	
		First Inventor Tracy Byrnes et al.	
		Title REDUCED SKIN ABRASION SHOE	
		Express Mail Label No. EV269463184US	

APPLICATION ELEMENTS <small>See MPEP chapter 600 concerning design patent application contents</small>		ADDRESS TO: Commissioner for Patents Mail Stop, Patent Application Alexandria, VA 22313-1450	
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1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <small>(Submit an original, and a duplicate for fee processing)</small> 2. <input checked="" type="checkbox"/> Applicant claims small entity status. <small>See 37 CFR 1.27.</small> 3. <input checked="" type="checkbox"/> Specification [Total Pages 12] <small>(preferred arrangement set forth below)</small> - Descriptive title of the invention - Cross Reference to the Related Applications - Statement Regarding Fed sponsored R & D - Reference to sequence listing, a table or a computer program listing appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description - Claim(s) - Abstract of the Disclosure 4. <input checked="" type="checkbox"/> Drawings(s) (35 U.S.C. 113) [Total Sheets 3] 5. <input checked="" type="checkbox"/> Oath or Declaration [Total Pages] a. <input type="checkbox"/> Newly executed (original or copy) b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <small>(for continuation/divisional with Box 18 completed)</small> i. <input type="checkbox"/> DELETION OF INVENTOR(S) <small>Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)</small> 6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76	7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix) 8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission <small>(if applicable, all necessary)</small> a. <input type="checkbox"/> Computer Readable Form (CRF) b. <input type="checkbox"/> Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statements verifying identity of above copies ACCOMPANYING APPLICATION PARTS 9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s)) 10. <input type="checkbox"/> 37 CFR 3.73(b) Statement (when there is an assignee) <input type="checkbox"/> Power of Attorney 11. <input type="checkbox"/> English Translation Document (if applicable) 12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 13. <input type="checkbox"/> Preliminary Amendment 14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <small>(Should be specifically itemized)</small> 15. <input type="checkbox"/> Certified Copy of Priority Document(s) <small>(if foreign policy is claimed)</small> 16. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent. 17. <input type="checkbox"/> Other:
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18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.:

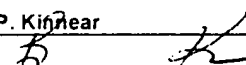
Prior application information: Examiner Group Art Unit:

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

<input checked="" type="checkbox"/> Customer Number or Bar Code Label		 26582	or <input type="checkbox"/> Correspondence address below	
---	--	--	--	--

Name Brian P. Kinnear	
Holland & Hart	
Address 555 17 th Street, Suite 3200	
City Denver	State Colorado
Zip Code 80202	
Country USA	Telephone 303-295-8170
Fax 303-295-8000	

Name (Print/Type) Brian P. Kinnear	Registration No. (Attorney/Agent) 43,717
Signature 	Date September 10, 2003

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<i>Patent fees are subject to annual revision</i>		Application Number	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 C.F.R. 1.27		Filing Date	Herewith
TOTAL AMOUNT OF PAYMENT (\$ 417 00)		First Named Inventor	Tracy Byrnes et al.
		Examiner Name	not yet assigned
		Group Art Unit	not yet assigned
		Attorney Docket No.	35693.830003.US0

METHOD OF PAYMENT	FEE CALCULATION (continued)																																																																																																																												
<input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account <div style="margin-left: 20px;"> Deposit Account Number: 08-2623 Deposit Account Name: </div> <p>The Commissioner is authorized to: (Check all that apply)</p> <input type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified account.	3. 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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Brian Kinnear	Registration No. (Attorney/Agent)	43,717
Telephone	303-295-8170	Date	September 12, 2003
Signature			

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PATENT
Attorney Docket No. 35693.830003.US0
Express Mail No. EV269463184US

IN RE UNITED STATES PATENT APPLICATION

FOR

REDUCED SKIN ABRASION SHOE

OF

5

TRACY BYRNES

AND

SEAN SULLIVAN

REDUCED SKIN ABRASION SHOE

FIELD OF THE INVENTION

The present invention relates to shoes and, more particularly, to a sport shoe with reduced foot abrasion.

5 BACKGROUND OF THE INVENTION

Shoes have been specialized and improved for years. Currently, shoe manufacturers and designers provide specialized shoes for many activities, such as, for example, running shoes, tennis shoes, cycling shoes, walking shoes, cross-trainers, and the like. These shoes can be designed to respond to particular pressures and hot spots for the assumed usage.

The design of the shoe, however, has only come so far. Many shoes also include inserts, liners, padding, environmental protection, and the like. Many of these designs reduce moisture and heat generated by the foot within the shoe. Reducing the moisture and heat provides some reduction in foot or skin abrasion against the shoe, which in turn reduces blistering and the like. For example, liners are typically made out of a breathable material. Inserts may include moisture absorbing or wicking properties.

Despite the above and other improvements to shoe designs, many users experience blistering or other irritation on their feet when performing more strenuous activities than, for example, walking. In particular, internal seams where a shoe tongue and external patches are connected to the shoe provide irritants. Thus, it would be desirous to develop an improved shoe to reduce skin abrasion.

SUMMARY OF THE INVENTION

25 To attain the advantages and in accordance with the present invention, a reduced abrasion shoe is provided. The shoe comprises a sole and an upper

forming an interior foot portion and an exterior portion. The upper of the shoe includes a toe box, a throat, and a heel. A tongue is coupled to the upper such that the seam resides on the exterior surface of the toe box. The tongue also includes the transition being where the tongue transitions from the exterior
5 surface to the interior cavity.

Another embodiment of the present invention provides a reduced abrasion shoe having a sole and an upper coupled to the sole. The upper and the sole form an exterior surface and an interior cavity. The upper includes a toe box, a throat, and a heel along with a tongue traversing the throat area. A
10 liner between the upper and the interior cavity is coupled to the upper about the mid-point of the shoe.

Still another embodiment of the present invention provides a reduced abrasion shoe having a sole and an upper coupled to the sole. The upper and the sole form an exterior surface and an interior cavity. The upper includes
15 along with a tongue that that traverses the throat. At least one patch is coupled to the exterior surface using a weld.

The foregoing and other features, utilities and advantages of the invention will be apparent from the following more particular description of a preferred embodiment of the invention as illustrated in the accompanying
20 drawings.

BRIEF DESCRIPTION OF THE DRAWING

The accompanying drawings, which are incorporated in and constitute a part of this specification, illustrate embodiments of the present invention, and together with the description, serve to explain the principles thereof.
25 Like items in the drawings are referred to using the same numerical reference.

FIG. 1 is a top side elevation of a shoe constructed in accordance with an embodiment of the present invention;

FIGS. 2 is a cross-section view of a shoe constructed in accordance with another embodiment of the present invention; and

FIG. 3 is rear elevation view of a shoe constructed in accordance with another embodiment of the present invention.

DETAILED DESCRIPTION

The present invention will be described with reference to FIGS. 1-3.

5 While the present invention is shown and described with regard to a running shoe, one of ordinary skill in the art would recognize on reading the disclosure that alternative shoes styles could use the invention described herein, and the use of a running shoe is exemplary and non-limiting. Other styles of shoes that would benefit from the present invention include, without
10 limitation, cycling shoes, sport cleats, basketball shoes, tennis shoes, and walking shoes

FIG. 1 shows a top elevation view of a running shoe 100. Running shoe 100 includes a sole 102 and an upper 104. Sole 102 and upper 104 form an internal cavity 106 to accept a user's foot and an external portion 108.

15 Upper 104 has a throat 110. A tongue 112 traverses throat 110 and is attached to upper 104 by a seam 114 at a toe box portion 116 of shoe 100. Seam 114 could be any conventional seam or connection, such as, for example, a stitch, a heat fusion seam, or the like.

Upper 104, typically, has two symmetrical boarders 118 outlining
20 throat 110. Loops 120 are conventionally connected to boarders 118. One or more laces 122 traverse throat 110 by threading through loops 120 in a zigzag pattern. Loops 110 and laces 122 could be replaced by other conventional tightening devices, such as strips of hook and loop material, such as, VELCRO®.

25 As can be seen in FIG. 1, seam 114 resides on external portion 108 of shoe 100. Thus, upper 104 is between seam 114 and the foot of a user. Because seam 114 is separated from the foot, skin abrasion or friction is reduced. The reduction in abrasion and/or friction reduces irritation. Seam 114 ends at a transition portion 124. As seen, tongue 112 is attached on
30 external portion 108 about toe box 116, but tongue 112 resides in the internal

cavity 106 below symmetrical boarders 118, which allows laces 122 to reside in external portion 108. Thus, transition portion 124 guides tongue 112 from being in external portion 108 to internal portion 106.

Referring now to FIG. 2, another shoe 200 consistent with the present invention is shown. Shoe 200 comprises a sole 202 and an upper 204. Upper 204 has an interior side 206 and an exterior side 208 (not specifically labeled in the figure). Sole 202 and interior side 206 define a cavity 210 to accept a user's foot. A liner 212 resides between interior side 206 and the user's foot. Liner 212 is attached to interior side 206 about the instep, midsole, or mid-point of the shoe by a seam 214. In this case, seam 214 is a conventional stitch, but could be a heat welded seam or the like. As can be seen, liner 212 lines the entire cavity 210. Lining the entire cavity with the protective layer reduces skin abrasion. Also, providing seam 214 about the foot arch or instep of the shoe additionally reduces friction, in part because of the lower pressures those portions of the foot are subject to and, in part, because less of the foot is exposed to the seam. Liner 212 could be any number of low friction materials, such as, for example, a mesh liner. Further, liner 212 could be loaded with moisture wicking or absorbing materials 216 to further reduce skin abrasion.

FIG. 3 shows a rear elevation view of a shoe 300. Shoe 300 includes a sole 302 and an upper 304. Upper 304 includes a toe box 306, a throat 308, and a heel 310. A patch 312 is coupled to shoe 300 about heel 310. Patch 312 provides upper 304 protection from the environment, such as, for example, scuffing the shoe. Patch 312 could be located in one or more places on the shoe. For example, many shoes have patches on heel 310 and toe box 306. Patch 312 could comprise leather, synthetic leather, rubber, or other composites as desired.

As mentioned in the background of the invention, conventional methods to couple patch 312 to upper 304 use a stitch. The stitch, however, causes a corresponding seam on in an interior portion 314 of shoe 300. In order to remove the seam on interior portion 314 of shoe 300, patch 312 is

welded to upper 304 along weld line 316. By welding patch 312 to upper 304, an irritant, namely the interior seam, is removed. Removing the irritant reduces skin abrasion and friction.

5 While the invention has been particularly shown and described with reference to an embodiment thereof, it will be understood by those skilled in the art that various other changes in the form and details may be made without departing from the spirit and scope of the invention.

We claim:

1. A reduced abrasion shoe, comprising:
a sole;
an upper coupled to the sole;
the upper and the sole forming an exterior surface and an interior
5 cavity;
the upper comprising a toe box, a throat, and a heel;
a tongue coupled to the upper such that the seam resides on the exterior
surface of the toe box; and
the tongue comprising a portion on the exterior surface and a portion in
10 the interior cavity, and a transition, the transition being where the tongue
transitions from the exterior surface to the interior cavity.
2. The shoe according to claim 1, further comprising a liner
between the upper and the interior cavity.
3. The shoe according to claim 2, wherein the liner is coupled to
the upper about the mid-point of the shoe.
4. The shoe according to claim 3, wherein the liner is coupled to
the upper using a stitch.
5. The shoe according to claim 1, further comprising a patch
coupled to the exterior surface
6. The shoe according to claim 5, wherein the patch is coupled to
the exterior surface by a weld without causing a seam in the interior cavity.
7. The shoe according to claim 3, further comprising a patch
coupled to the exterior surface using a weld without causing a seam in the
interior cavity.

8. The shoe according to claim 7, wherein the shoe comprises a shoe from the group consisting of a cycling shoe, a running shoe, a tennis shoe, a sneaker, a soccer shoe, a bowling shoe, a football shoe, a cleat, a basketball shoe, and a golf shoe.

9. A reduced abrasion shoe, comprising:
a sole;
an upper coupled to the sole;
the upper and the sole forming an exterior surface and an interior
5 cavity;
the upper comprising a toe box, a throat, and a heel;
a tongue coupled to the upper, the tongue traversing the throat; and
a liner between the upper and the interior cavity, the liner coupled to
upper about the mid-point of the shoe.
- 10
10. The shoe according to claim 9, wherein the liner comprises a
mesh material.
12. The shoe according to claim 9, wherein the liner comprises a
low friction material.
12. The shoe according to claim 11, wherein the tongue is coupled
to the toe box such that the seam resides on the exterior surface.
13. The shoe according to claim 9, further comprising a patch
coupled to the exterior surface of the upper.
14. The shoe according to claim 13, wherein the patch is coupled to
the exterior surface using a weld without causing a seam in the interior cavity.

15. A reduced abrasion shoe, comprising:
a sole;
an upper coupled to the sole;
the upper and the sole forming an exterior surface and an interior
5 cavity;
the upper comprising a toe box, a throat, and a heel;
a tongue coupled to the upper that traverses the throat; and
at least one patch coupled to the exterior surface using a weld.
16. The shoe according to claim 15, wherein the at least one patch
comprises at least one of a synthetic leather and a high-density rubber.
17. The shoe according to claim 15, wherein the at least one patch
comprises at least one patch coupled to the heel portion of the upper.

18. A reduced abrasion shoe, comprising:
- a sole;
 - an upper coupled to the sole;
 - the upper and the sole forming an exterior surface and an interior
 - 5 cavity;
 - the upper comprising a toe box, a throat, and a heel;
 - a tongue coupled to the upper such that the seam resides on the exterior
 - surface of the toe box;
 - the tongue comprising a portion on the exterior surface and a portion in
 - 10 the interior cavity, and a transition, the transition being where the tongue
 - transitions from the exterior surface to the interior cavity;
 - a liner between the upper and the interior cavity, the liner coupled to
 - upper about the mid-point of the shoe; and
 - at least one patch coupled to the exterior surface of the shoe, wherein
 - 15 the at least one patch is coupled to the exterior surface using a fusion bond.

ABSTRACT

The present invention relates to a reduced abrasion shoe. The reduced abrasion shoe comprises strategically removing seams from the interior cavity of the shoe. In particular, the tongue traversing the throat is attached to the exterior surface of the upper about the toe box. A full liner between the upper and the interior cavity is coupled to the upper about the shoe mid-point. Finally, exterior surface patches are coupled to the exterior surface using a fusion bond instead of a stitch to remove the corresponding interior seam.

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3124200_1 DOC

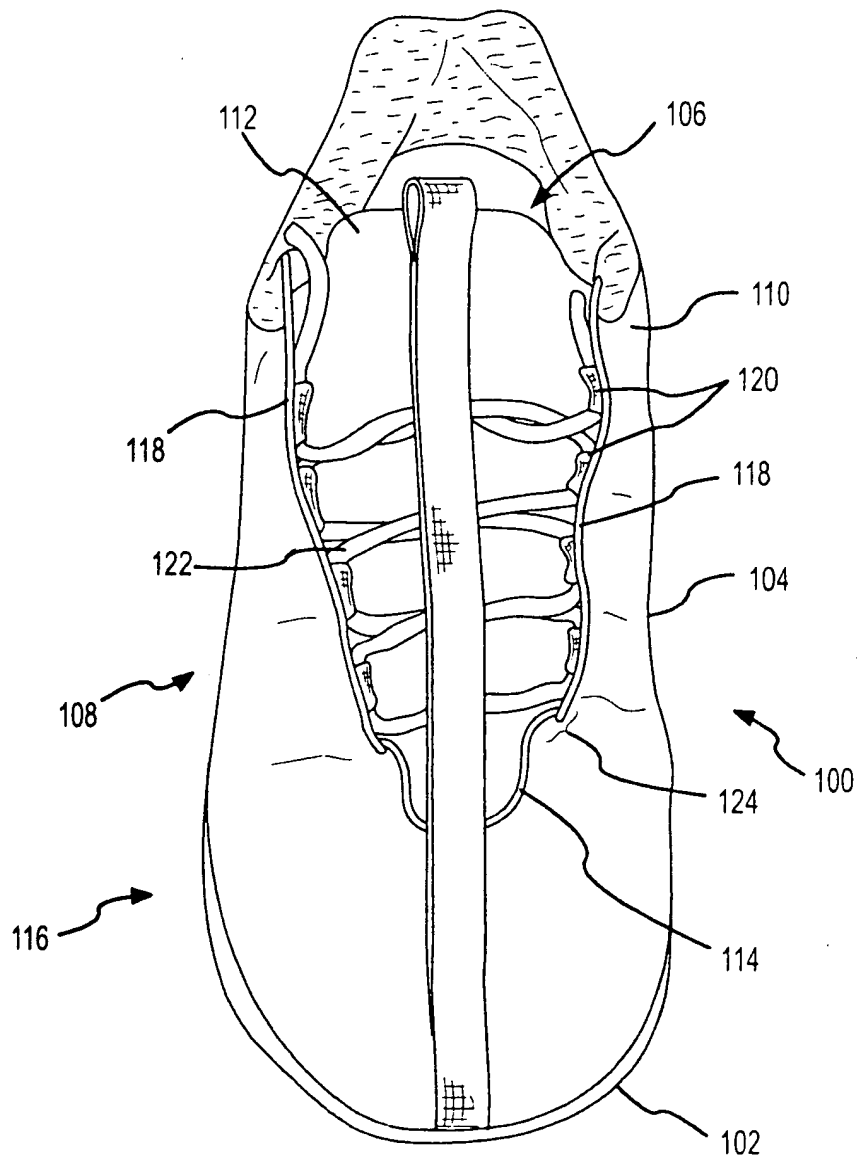


FIG. 1

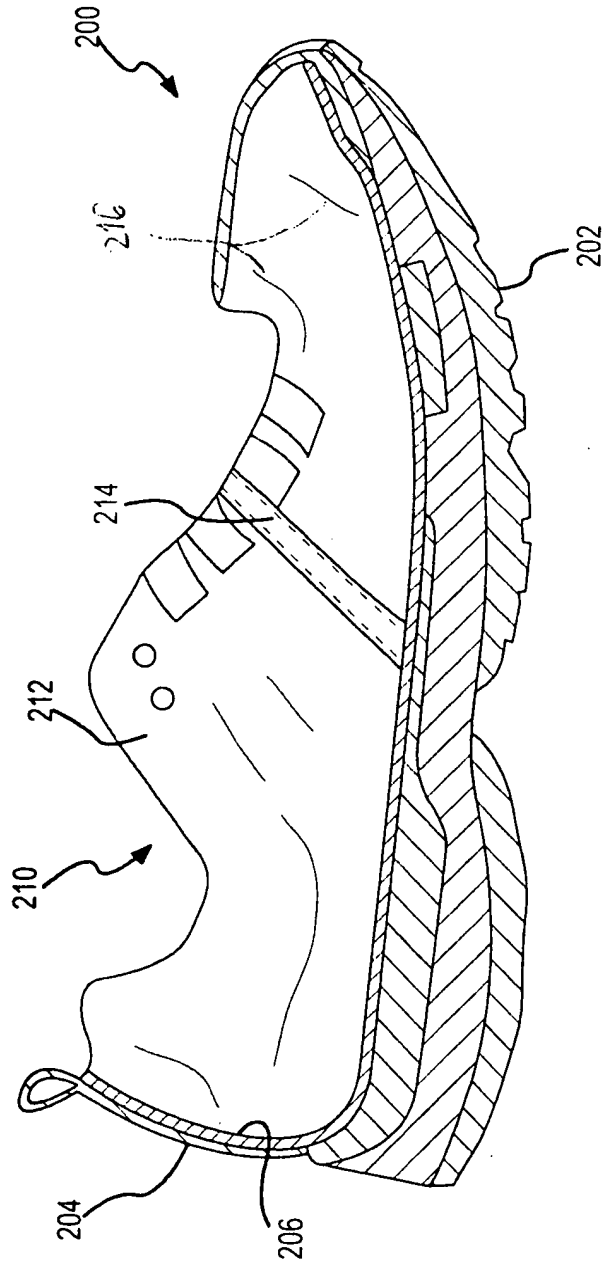


FIG. 2

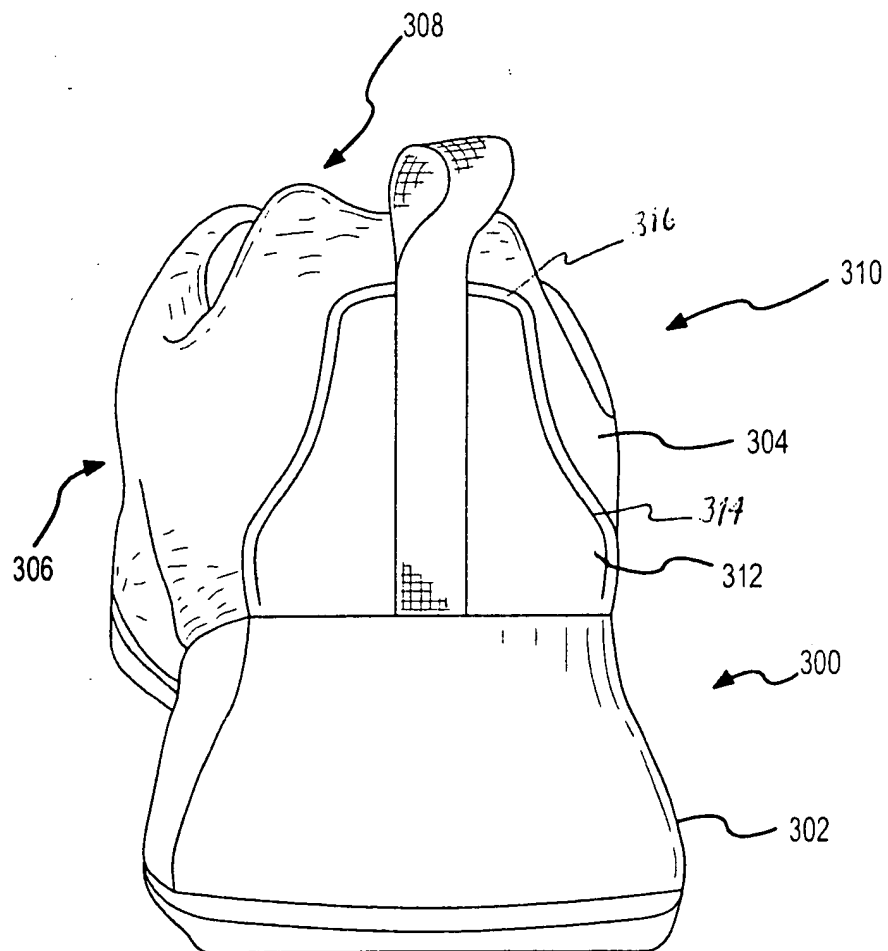


FIG.3

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Sean Sullivan
843 Racquet Lane
Boulder, CO 80303

35693.0027 B Kinneer

2. Article Number

(Transfer from service label)

7001 0320 0005 8119 9819

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

Sullivan

C. Date of Delivery

9/26/02

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☐ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

B Kinneer

Postage \$

1.29

Certified Fee

2.30

Return Receipt Fee
(Endorsement Required)

1.75

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$ 5.34

Sent To

Mr. Sean Sullivan
Street, Apt. No., or PO Box No. 843 Racquet Lane
City, State, ZIP+4 Boulder, CO 80303

PS Form 3800, January 2001

Reverse for Instructions

BURNES

Acknowledgment of Receipt

I have received a copy of the DashAmerica, Inc. Employee Handbook dated May, 2001. I understand that I am to become familiar with its contents as it outlines my responsibilities, benefits, and company guidelines. If I have any questions or suggestions, I understand that I should talk to my manager or the Human Resources Department.

I FURTHER UNDERSTAND THAT THE CONTENTS OF THIS HANDBOOK DO NOT CONSTITUTE AN EXPRESS OR IMPLIED CONTRACT OF EMPLOYMENT. BOTH THE COMPANY AND I REMAIN FREE TO END OUR RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE, AND WITHOUT ADVANCE NOTICE, PROCEDURE, OR TIME FORMALITY. This handbook represents **BRIEF SUMMARIES** of DashAmerica, Inc. guidelines which are subject to change or revocation at any time and so this handbook may not be all-inclusive.

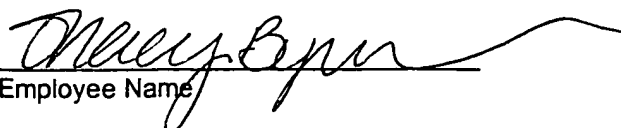
I will preserve the secrecy of all trade secrets and other proprietary and confidential information belonging to the company, both while I am employed with the company and afterwards, and I will not take or misuse any confidential information at anytime. I also agree that, on the company's request or on termination of my employment, I will promptly return to the company all its property, specifically including all documents, disks, or other computer media or other materials in my possession or under my control that contain ideas, processes, concepts, or other trade secrets or proprietary and confidential information belonging to the company.

I understand and agree that all work and products I may create or develop in the scope of my employment, including any work or products I create or develop during work hours for the company or using the company's premises or any of its equipment or supplies, are work made for hire that belongs to the company and will remain the company's property.

I understand that the company will give references to potential employers on my request or if requested by potential employers unless I give the company a written notice asking it not to give references for me. I release the company and hold it harmless concerning any information it may give about my job performance to potential employers, so long as the company provides that information in good faith.

I understand and agree that any disputes that arise between the company and me that cannot be resolved informally shall be decided by submission of the dispute to binding arbitration before a professional arbitration organization selected by DashAmerica, Inc.. **I acknowledge and agree that I am agreeing to waive to the maximum extent permitted by law any right to have any such dispute decided in a court of law before a jury, and instead am accepting the use of the arbitration process.** The arbitrator's procedures or rules then in effect for employment disputes will govern any arbitration between the company and me, and the arbitration shall take place in the Denver, Colorado metro area. I agree that each party shall bear its own costs and attorneys fees incurred in connection with the arbitration. The arbitrator's fees shall be born equally by the parties. Notwithstanding the foregoing, the arbitrator shall have the discretion to award attorney fees, arbitrator's fees, and costs to the prevailing party.

After reviewing the above, please sign both copies of the acknowledgment and return one to your manager.


Employee Name

7/5/01
Date

LIVAN, S.

Acknowledgment of Receipt

I have received a copy of the DashAmerica, Inc. Employee Handbook dated May, 2001. I understand that I am to become familiar with its contents as it outlines my responsibilities, benefits, and company guidelines. If I have any questions or suggestions, I understand that I should talk to my manager or the Human Resources Department.

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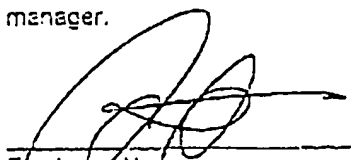
I will preserve the secrecy of all trade secrets and other proprietary and confidential information belonging to the company, both while I am employed with the company and afterwards, and I will not take or misuse any confidential information at anytime. I also agree that, on the company's request or on termination of my employment, I will promptly return to the company all its property, specifically including all documents, disks, or other computer media or other materials in my possession or under my control that contain ideas, processes, concepts, or other trade secrets or proprietary and confidential information belonging to the company.

I understand and agree that all work and products I may create or develop in the scope of my employment, including any work or products I create or develop during work hours for the company or using the company's premises or any of its equipment or supplies, are work made for hire that belongs to the company and will remain the company's property.

I understand that the company will give references to potential employers on my request or if requested by potential employers unless I give the company a written notice asking it not to give references for me. I release the company and hold it harmless concerning any information it may give about my job performance to potential employers, so long as the company provides that information in good faith.

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After reviewing the above, please sign both copies of the acknowledgment and return one to your manager.


Employee Name
Date

- t. any other information designated as confidential in writing at or prior to disclosure, regardless of the form of such information or the manner in which it is conveyed.

In addition, Employee will not disclose any other confidential information concerning the business and affairs of the Corporation which would cause the Corporation to operate at a competitive disadvantage, if disclosed. Employee agrees to consult with an officer of the Corporation prior to disclosure or other use of information first learned or received in communication with the Corporation or any of its officers or employees if Employee is uncertain whether the information to be disclosed is confidential under this Agreement.

2. Term. Employee understands that this Agreement shall remain in effect during his or her employment and for a period of five (5) years after the Employee's employment with the Corporation has ceased.

3. Exceptions to Non-disclosure. Employee understands that the only exceptions to this Agreement are as follows:

- a. disclosures which are already public knowledge and where the public information was obtained from sources other than Employee;
- b. disclosures which are authorized by the Corporation in writing prior to release of the information.

4. Remedies. Employee understands and agrees to the following:

a. any disclosure of trade secrets, confidential information or other information covered by this Agreement, will result in immediate and irreparable harm to the Corporation for which it may have no adequate remedy at law and for which the Corporation may seek equitable relief including a temporary restraining order and injunction. This shall not, however, preclude the Corporation from bringing a claim against Employee for appropriate damages caused by wrongful disclosure or misappropriation;

b. this Agreement shall not limit any other civil or criminal remedies that Corporation may have for disclosure or misappropriation of its trade secrets or confidential information. In addition, Corporation shall have all remedies provided by the Uniform Trade Secrets Act, CRS §7-74-101 et seq.

5. Communications. Employee acknowledges and agrees to observe the corporate policy of Corporation which provides that employees of the Corporation shall refrain from communicating in a public forum, whether orally or in writing, anything negative or derogatory about any competitor of the Corporation. Employee further acknowledges and agrees that employee shall refrain from communicating in a public forum, whether orally or in writing, anything negative or derogatory about any current or former employee of the Corporation.

6. Improvements. The Employee acknowledges that during his or her testing for the Corporation, he or she may make, develop, or conceive inventions, discoveries, concepts, ideas, information and improvements, either patentable or not, arising out of such engagement and which relate to or are useful in the business or activities in which the Corporation is or may become engaged, and which may or may not also constitute confidential information ("Improvements"). Employee agrees to disclose promptly to the Corporation, any Improvements that Employee may make, develop, or conceive arising out of his or her engagement by the Corporation. All such Improvements shall be and remain the property of the Corporation. Employee hereby assigns (and agrees to assign) to the Corporation all his or her right, title, and interest in such Improvements and to execute all patent applications, assignments, and other documents, and to take all other steps necessary, to vest in the Corporation the entire right, title, and interest in and to those Improvements and in and to any patents obtainable therefor in the United States and foreign countries.